

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HOWARD )

IN THE HOWARD SUPERIOR COURT I

STATE OF INDIANA )

vs. )

DONALD WAGONER )

CAUSE NO. 34D01-1304-FA-00277

**FILED**

MAY 28 2014

STIPULATED FACTUAL STATEMENT

HOWARD SUPERIOR  
COURT DIVISION 1

Comes now the defendant, Don Wagoner who is a licensed physician in the State of Indiana, states that in 1965 he founded the Wagoner Medical Clinic 605 E. 7<sup>th</sup> Street, Burlington, Indiana, Carroll County and Wagoner Medical Center, 821 N. Dixon Rd., Kokomo, Indiana, Howard County. Dr. Wagoner was also registered with DEA to dispense scheduled medications II through V.

COUNT 3 - On or about January 10, 2010, in Howard County, Indiana, Don Wagoner did knowingly prescribe Oxycodone a scheduled II controlled substance in an amount in excess of 3 grams to Tim DeWeese. *DIRD Jan 14, 2010 6 hours BR* This prescription was given outside the usual course of professional practice and was filled at the CVS Pharmacy in Kokomo, Howard County, Indiana, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Indiana.

COUNT 4 - That on or about October 1, 2010, in Howard County, State of Indiana Don Wagoner did knowingly prescribe a schedule III controlled substance to Stephen Bratcher by prescribing said controlled substance which prescription was written outside the usual course of professional practice and which Stephen Bratcher filled at the CVS Pharmacy in Kokomo, *DEAD Oct 19 2010* Howard County, Indiana. Contrary to the form of that Statue in such cases made and provided



against the peace and dignity of the State of Indiana.

COUNT 5 - That on or about February 2, 2010, in Howard County, Indiana, Don Wagoner did knowingly prescribe, hydrocodone, a scheduled III controlled substance to Sharlee Rust, by prescribing said controlled substance which prescription was written outside the usual course of professional practice and which Sharlee Rust filled at the CVS Pharmacy in Kokomo, Howard County, Indiana. Contrary to the form of the Statue in such cases made and provided against the peace and dignity of the State of Indiana.

*DIED Feb. 14, 2010 OD*

COUNT 6 - On or about March 12, 2010, in Howard County, Indiana, Don Wagoner did knowingly prescribe a 60 mg. MS Contin (morphine) a scheduled II controlled substance to Miriam Cornwell, which prescription was written outside the usual course for professional practice and which prescription was filled at the CVS Pharmacy in Kokomo, Howard County, Indiana. Contrary to the form of the Statue in such cases made and provided against the peace and dignity of the State of Indiana.

*DEAD, OD Apr 14, 2010*

COUNT 11 - On or about August 18, 2010, in Howard County, in the State of Indiana, Don Wagoner did prescribe Oxycodone, a schedule II controlled substance to Dan Tucker, which prescription was written outside the usual course for professional practice and which prescription was filled at the Walgreen Pharmacy in Kokomo, Howard County, Indiana. Contrary to the form of the Statue in such cases made and provided against the peace and dignity of the State of Indiana.

*OD, d. Aug. 27 2010*  
*Off Ice*

COUNT 13 - On or about January 26, 2011, in Howard County, in the State of Indiana, Don Wagoner did prescribe Oxycodone and Fentanyl, both scheduled II controlled substances to Scott Rogers. By prescribing said controlled substance which prescriptions were written outside

*DEAD OD Jan. 29, 2011*

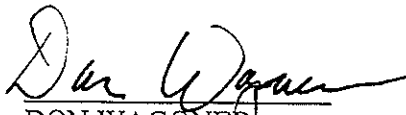
the usual course of professional practice and which prescription was filled at the Meijer Pharmacy in Kokomo, Indiana contrary to the form of the statutes in such cases made and provided against the peace and dignity of the State of Indiana.

COUNT 17 - On or about January 11, 2013, in Howard County, in the State of Indiana, Don Wagoner did prescribe 80 mg. of Oxycotin, 20 mg. of Oxycodone and 30 mg. of Oxycodone, all scheduled II controlled substances in an amount in excess of 3 grams to William Jamerson, which prescriptions were written outside the usual course of professional practice and which prescription were filled at the CVS Pharmacy in Howard County. Contrary to the form of the statutes in such cases made and provided against the peace and dignity of the State of Indiana.


COUNT 18 - Between April 2008 and February 2013, Don Wagoner, in Howard County, Kokomo, Indiana, did knowingly agree with others, in the prescribing of narcotic drugs and in furtherance of said agreement did perform the following overt acts:

- 1) That Don Wagoner owned and operated the Wagoner Medical Center at 605 E. 7<sup>th</sup> Street, Burlington, Carroll County, Indiana, and the Wagoner Medical Center, 821 N. Dixon Rd., Kokomo, Howard County, Indiana. That he further employed other individuals as Physicians Assistants and Nurses within that practice and that Don Wagoner allowed his Physician Assistants to prescribe controlled substance to his patients despite the fact that the Physician Assistants had no Indiana Control Substance Registration or Federal DEA Registration to prescribe controlled substances.
- 2) That Don Wagoner failed to adequately supervise his Physician Assistant, Gary Hartman .

- 3) That Don Wagoner provided his staff with pre-signed prescription forms to use in his absence.
- 4) That Don Wagoner approved treatment plans and prescription recommendations for controlled substances without personally examining the patient.
- 5) That said prescriptions were written for controlled substance outside of the accepted standards of medical care and outside the usual course of professional practice. All contrary to the Statue as provided against the peace and dignity of the State of Indiana.

  
DON WAGONER  
DEFENDANT

5/28/14  
DATE

 #031-49  
JAMES H. VOYLES

  
STEPHANIE DORAN  
ATTORNEYS FOR DEFENDANT

 *for*  
MARK MCCANN  
PROSECUTOR

  
RON BYAL  
DEPUTY PROSECUTOR

JAMES H. VOYLES #631-49  
VOYLES ZAHN PAUL  
141 E. Washington Street  
Suite 300  
Indianapolis, IN 46204  
(317) 632-4463

STEPHANIE C. DORAN #17302-34  
Attorney at Law  
109 W. Sycamore Street  
Kokomo, Indiana 46901  
(765) 457-9121

MARK MCCANN  
Kokomo County Prosecutor Office  
Courthouse  
104 N. Buckeye St.  
Kokomo, IN 46901

RON BYAL  
Kokomo County Prosecutor Office  
Courthouse  
104 N. Buckeye St.  
Kokomo, IN 46901

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HOWARD SUPERIOR  
COURT DIVISION 1

**RECOMMENDATION OF PLEA AGREEMENT**

Come now the Defendant, Donald Wagoner, in person and with counsel, Stephanie Doran and James Voyles, and the State of Indiana by Mark A. McCann, Prosecuting Attorney and Ronald C. Byal, Chief Deputy Prosecuting Attorney, and hereby enter into this Plea Agreement made pursuant to I.C. 35-35-3-1 through I.C. 35-35-3-7, as follows:

1. This Agreement, having been signed by the Defendant, his counsel, and the Prosecuting Attorney, shall be introduced into evidence by stipulation of those parties at the time of this guilty plea.
2. That the State and Defendant have made certain concessions and recommendations and agree that this Agreement encompasses the following terms:
3. That the Defendant agrees to plead guilty to:
  - a. Count 3, Dealing in a Narcotic Drug, a Class A Felony;
  - b. Count 4, Dealing in a Schedule 3 Controlled Substance, a Class B Felony;
  - c. Count 5, Dealing in a Schedule 3 Controlled Substance, a Class B Felony;
  - d. Count 6, Dealing in a Narcotic Drug, a Class B Felony;
  - e. Count 11, Dealing in a Narcotic Drug, a Class B Felony;
  - f. Count 13, Dealing in a Narcotic Drug, a Class B Felony;
  - g. Count 17, Dealing in a Narcotic Drug, a Class A Felony; and
  - h. Count 18, Conspiracy to Commit Dealing in a Narcotic Drug, a Class B Felony.
4. The Defendant shall be sentenced as follows:
  - a. Under Count 3, Dealing in a Narcotic Drug, a Class A Felony, the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Thirty (30) years. The executed portion of the Defendant's sentence shall be Ten (10) years. The Defendant shall serve Two (2) years in the Indiana Department of Corrections and the remaining portion of the Defendant's executed sentence shall be served on In-home Detention. The remaining unexecuted portion of the Defendant's sentence shall be suspended and the



Defendant placed on supervised probation for Four (4) years and Sixteen (16) years on unsupervised probation;

- b. Under Count 4, Dealing in a Schedule 3 Controlled Substance, a Class B Felony, the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Ten (10) years, executed. Two (2) years of the executed portion of the Defendant's sentence shall be served in the Indiana Department of Correction. The remaining executed portion of the Defendant's sentence shall be served on In-home Detention;
- c. Under Count 5, Dealing in a Schedule 3 Controlled Substance, a Class B Felony, the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Ten (10) years, executed. Two (2) years of the executed portion of the Defendant's sentence shall be served in the Indiana Department of Correction. The remaining executed portion of the Defendant's sentence shall be served on In-home detention;
- d. Under Count 6, Dealing in a Narcotic Drug, a Class B Felony, the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Ten (10) years, executed. Two (2) years of the executed portion of the Defendant's sentence shall be served in the Indiana Department of Correction. The remaining executed portion of the Defendant's sentence shall be served on In-home Detention;
- e. Under Count 11, Dealing in a Narcotic Drug, a Class B Felony, the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Ten (10) years, executed. Two (2) years of the executed portion of the Defendant's sentence shall be served in the Indiana Department of Correction. The remaining executed portion of the Defendant's sentence shall be served on In-home Detention;
- f. Under Count 13, Dealing in a Narcotic Drug, a Class B Felony, the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Ten (10) years, executed. Two (2) years of the executed portion of the Defendant's sentence shall be served in the Indiana Department of Correction. The remaining executed portion of the Defendant's sentence shall be served on In-home Detention;
- g. Under Count 17, Dealing in a Narcotic Drug, a Class A Felony the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Thirty (30) years. The executed portion of the Defendant's sentence shall be Ten (10) years. The Defendant shall serve Two (2) years in the Indiana Department of Corrections and the remaining portion of the Defendant's executed sentence be served on In-home Detention. The remaining unexecuted portion of the Defendant's sentence shall be suspended and the Defendant placed on supervised probation for Four (4) years and Sixteen (16) years on unsupervised probation; and
- h. Under Count 18, Conspiracy to Commit Dealing in a Narcotic Drug, a Class B Felony, the Defendant shall be sentenced to the Indiana Department of Corrections for a period of Ten (10) years, executed. Two (2) years of the executed portion of the Defendant's sentence shall be served in the Indiana Department of Correction. The remaining executed portion of the Defendant's sentence shall be served on In-home Detention.

The sentences imposed under Counts 3,4,5,6,11,13, 17 and 18 shall be served concurrently.

The State shall dismiss Counts 1, 2, 7, 8, 9,10,12,14,15,16,19 and 20.

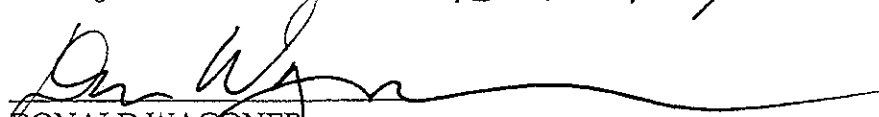
The Defendant shall surrender his license to practice medicine and agrees he shall not practice medicine in any capacity, in any state or country for the rest of his life.


5. The Defendant shall have the right to file for a sentence modification after serving Two (2) years of his sentence.
6. That the Defendant shall pay Court Costs in the amount of \$168.50, Administrative Fees and Probation User Fees and DFCAF costs in the amount of \$250.00. There shall be no fine imposed.
7. That the Defendant knowingly, intelligently and voluntarily waives the right to challenge the trial court's findings and balancing of mitigating and aggravation factors and further waives the right to have the Court of Appeals review the sentence herein under Indiana Appellate Rule 7 (B).
8. That the Defendant knowingly, intelligently, and voluntarily waives the right to challenge the sentence herein on the basis that it is erroneous.
9. That the Defendant knowingly, intelligently, and voluntarily waives the right to challenge his convictions herein on the basis of lack of jurisdiction.
10. That the parties understand and acknowledge that the Court may reject or accept this Agreement, but that if accepted, the Court is bound by the terms of this Agreement.
11. That the parties understand that if the Court rejects this Agreement, the contents of this Agreement, hearings or statements made pursuant to this Agreement shall not be admissible in a later trial.
12. That the parties understand and agree that cause to be set for trial should this Agreement be rejected.

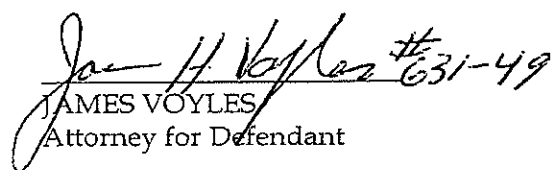


13. If applicable, the State certifies pursuant to I.C. 35-35-3-2 and I.C. 35-35-3-5 that the victim has been informed of the contents of this Agreement and of the Court's hearing date in this matter.
14. That the Defendant understands that the State and federal constitutions guarantee him/her certain rights, among them being the right to a public trial by jury, to a speedy trial, to be free from self-incrimination, to confront and cross examine the witnesses against him/her, and to compel the attendance of witnesses in his/her favor, and to require the State to prove his/her guilt beyond a reasonable doubt. He/She further understands that the entry of his/her guilty plea, pursuant to this Agreement, works as a waiver of those rights in the information indictment count to which he/she pleads guilty and that the guilty plea amounts to a conviction.
15. That the Defendant additionally acknowledges that he/she is satisfied with his/her counsel's representation and competence exhibited in this matter, and that he/she believes this agreement to be in his/her best interest.
16. That this agreement embodies the entire agreement between the parties, and no promises have been made or inducements given to the Defendant by the State which are not set out herein.

This Agreement entered into this 13 day of MAY, 2014.

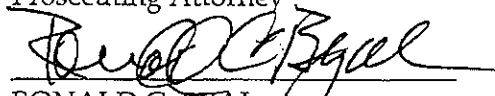
  
DONALD WAGONER  
Defendant

  
STEPHANIE DORAN  
Attorney for Defendant

 #631-49  
JAMES VOYLES  
Attorney for Defendant

  
\_\_\_\_\_  
MARK A. MCCANN

Prosecuting Attorney

  
\_\_\_\_\_  
RONALD C. BYAL

Chief Deputy Prosecuting Attorney

STATE OF INDIANA     }  
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COUNTY OF HOWARD    }

IN THE HOWARD SUPERIOR COURT I

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STATE OF INDIANA

JUL 02 2014

VS

HOWARD SUPERIOR  
COURT DIVISION 1

CAUSE NO: 34D01-1304-FA-00277

Donald Wagoner

### SENTENCING ORDER

The State of Indiana appears by Mark A. McCann, Prosecuting Attorney, and Ronald C. Byal, Chief Deputy Prosecuting Attorney. The Defendant appears in person, and with counsel, Stephanie C. Doran and James Voyles. The Defendant having previously entered a plea of guilty to Count 3, Dealing in a Narcotic Drug, as a Class A Felony; Count 4, Dealing in a Schedule 3 Controlled Substance, as a Class B Felony; Count 5, Dealing in a Schedule 3 Controlled Substance, as a Class B Felony; Count 6, Dealing in a Narcotic Drug, as a Class B Felony; Count 11, Dealing in a Narcotic Drug, as a Class B Felony; Count 13 Dealing in a Narcotic Drug, as a Class B Felony; Count 17, Dealing in a Narcotic Drug, as a Class A Felony; and Count 18, Conspiracy to Commit Dealing in a Narcotic Drug, as a Class B Felony and the Court having previously entered a Judgment of Conviction thereon, this cause now comes on for sentencing. IT IS THEREFORE ORDERED ADJUDGED AND DECREED, by the Court:

Pursuant to the Recommendation of Plea Bargain, the Defendant is now sentenced on Count 3 to the Indiana Department of Correction for a period of 10,950 days (30 years), 3,650 days (10 years) are ordered to be executed as follows: 730 days (2 years) are ordered executed at the Indiana Department of Correction and 2,920 days (8 years) are ordered executed on In-Home Detention. The Court now orders 7,300 days (20 years) suspended. The Defendant shall serve 1,460 days (4 years) of the suspended sentence on Supervised Probation and 5,840 days (16 years) of the suspended sentence on Unsupervised Probation.

The Defendant is now sentenced on Count 4 to the Indiana Department of Correction for a period of 3,650 days (10 years), all of which is to be executed as follows: 730 days (2 years) are ordered executed at the Indiana Department of Correction and 2,920 days (8 years) shall be served on In-Home Detention.

The Defendant is now sentenced on Count 5, to the Indiana Department of Correction for a period of 3,650 days (10 years), all of which is to be executed as follows: 730 days (2 years) are ordered executed at the Indiana Department of Correction and 2,920 days (8 years) shall be served on In-Home Detention.

The Defendant is now sentenced on Count 6 to the Indiana Department of Correction for a period of 3,650 days (10 years), all of which is to be executed as follows: 730 days (2 years) are ordered executed at the Indiana Department of Correction and 2,920 days (8 years) shall be served on In-Home Detention.

The Defendant is now sentenced on Count 11 to the Indiana Department of Correction for a period of 3,650 days (10 years), all of which is to be executed as follows: 730 days (2 years) are ordered executed at the Indiana Department of Correction and 2,920 days (8 years) shall be served on In-Home Detention.

The Defendant is now sentenced on Count 13 to the Indiana Department of Correction for a period of 3,650 days (10 years), all of which is to be executed as follows: 730 days (2 years) are ordered executed at the Indiana Department of Correction and 2,920 days (8 years) shall be served on In-Home Detention.

The Defendant is now sentenced on Count 17 to the Indiana Department of Correction for a period of 10,950 days (30 years). The executed portion of the sentence shall be 3,650 days (10 years), all of which is ordered executed as follows: 730 days (2 years) shall be served at the Indiana Department of Correction and 2,920 days (8 years) shall be served on In-Home Detention. The Court now orders 7,300

days (20 years) of the Defendant's sentence suspended. The Defendant shall serve the suspended portion of the sentence as follows: 1,460 days (4 years) shall be served on Supervised Probation and 5,840 days (16 years) shall be served on Unsupervised Probation.

The Defendant is now sentenced on Count 18 to the Indiana Department of Correction for a period of 3,650 days (10 years), all of which is ordered executed as follows: 730 days (2 years) are ordered executed at the Indiana Department of Correction and 2,920 days (8 years) shall be served on In-Home Detention.

The sentences imposed under Counts 3,4,5,6,11,13,17 and 18 shall be served concurrently, one with the other.

The Defendant has jail time credit in the sum of 7 actual days or 14 credit days, day for day credit, served while awaiting trial and disposition in this matter.

As specific conditions of Probation and In-Home Detention, the Defendant is ordered to follow any and all recommendations made by the Probation Department and In-Home Detention, including, but not limited to, treatment and education.

The Defendant shall surrender his license to practice medicine and agrees he shall not practice medicine in any capacity, in any state or country for the rest of his life.

The Defendant is ordered to pay the Probation User's Fees, the Probation Administrative Fee. The Defendant is Ordered to pay a Drug Interdiction Fee in the sum of \$250.00. The Defendant is ordered to pay Court Costs.

The Defendant's bond is ordered released subject to the fines, fees, and costs.

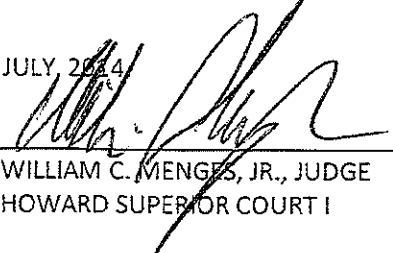
The State of Indiana moves to dismiss Counts 1,2,7,8,9,10,12,14,15,16,19, and 20. Granted. Court now orders Counts 1,2,7,8,9,10,12,14,15,16,19, and 20 Dismissed.

The Defendant is remanded to the custody of the Sheriff for transportation to the Indiana Department of Correction.

COMMITMENT ORDERED.

JUDGMENT ON SAID FINDINGS.

ALL OF WHICH IS SO ORDERED THIS 2nd DAY OF JULY, 2024

  
WILLIAM C. MENGES, JR., JUDGE  
HOWARD SUPERIOR COURT I

Distribution:

Mark A. McCann

Ronald C. Byal

Stephanie C. Doran

James H Voyles

Probation Department

Howard County Sheriff's Dept.

In-Home Detention

WCM/ew